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HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Third periodic reports of States parties due in 1989

Addendum

SWEDEN */

[30 October 1989]

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*/ For the initial report submitted by the Government of Sweden, see CCPR/C/1/Add.9 and Corr.1; for its consideration by the Committee, see CCPR/C/SR.52-53 and Official Records of the General Assembly, Thirty-third Session, Supplement No. 40 (A/33/40), paragraphs 68-94. For the supplementary report submitted in reply to questions put by the Committee during consideration of the initial report, see CCPR/C/1/Add.42; for the consideration of that report, see CCPR/C/SR.188-189 and Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 40 (A/35/40), paragraphs 79-87. For the second periodic report of the Government of Sweden, see CCPR/C/32/Add.6 and 8; for its consideration by the Committee, see CCPR/C/SR.635-638 and Official Records of the General Assembly, Forty-first Session Supplement No. 40 (A/41/40), paragraphs 101-163. Pursuant to the Committee's consideration of Sweden's second periodic report, supplementary information was submitted by Sweden (CCPR/C/32/Add.12).

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I. GENERAL

1. Sweden has a long-standing legal tradition. The law has been codified for several centuries. Therefore, as is evident from the information submitted under each article below, case law has never played as predominant a part in Sweden as in some other legal systems.

2. As stated in the Constitution, all public power in Sweden emanates from the people and shall be exercised under the law. The Parliament (Riksdag) is the principal representative of the people. It enacts the laws, which are usually proposed by the Government, and examines the government and administration of the country. The Government rules the country and is responsible to Parliament.

3. For the administration of justice there are courts of law, and for public administration there are State and municipal administrative authorities. According to the Constitution, courts and public authorities as well as others who carry out functions within the public administration shall in their activities ensure the equality of all persons under the law and shall maintain objectivity and impartiality.

4. With regard to the general framework within which the civil and political rights recognized by the Covenant are observed, it should also be mentioned that legal matters are handled by general courts, administrative courts or administrative authorities. Decisions may in most cases be appealed, ultimately, to the Supreme Court, the Supreme Administrative Court or the Government.

5. Legislation in Sweden concerning the protection of individuals against the State dates back to about 1350. Today, the fundamental freedoms and rights are included in the second chapter of the Constitution. The relevant provisions of the Constitution have been described in earlier reports to the Human Rights Committee and will be referred to below in the comments on the individual articles of the Covenant.

6. Since the last periodic report was submitted in 1984, a number of legislative measures which concern some of the rights laid down in the Covenant have been enacted. These are described in some detail in part II of this report, together with a reference to legislation which has been covered in previous reports. The most important changes are:

(a) The office of Ombudsman against Ethnic Discrimination (see art. 2, para.1, below) was established on 1 July 1986;

(b) New provisions on deprivation of liberty in criminal cases, especially provisions concerning time-limits for examination of a detention on remand issue (see art. 9, para. 3, below) entered into force on 12 April 1988;

(c) The Act regarding Judicial Review of Certain Administrative Decisions (see art. 14, para. 1, below) entered into force on 1 July 1989.

(d) A new Aliens Act (see art. 2, para. 1, below) entered into force on 1 July 1989.

II. INFORMATION RELATING TO EACH OF THE ARTICLES IN PARTS I, II AND III OF THE COVENANT

Article 1

7. As mentioned earlier (CCPR/C/SR.635, para. 37), Sweden strictly observes the Charter of the United Nations and deeply regrets any violation of that instrument by any party.

8. Sweden has no colonies and is not responsible for the administration of any Non-Self Governing or Trust Territories.

Article 2, paragraph 1

9. As mentioned above, the Swedish Constitution prohibits discriminatory treatment by courts or administrative authorities (see CCPR/C/1/Add.9, p. 2; also under part I above).

10. A new authority - the Ombudsman against Ethnic Discrimination - was established on 1 July 1986 to counteract ethnic discrimination in the labour market and other fields of public life. An Advisory Committee on Questions concerning Ethnic Discrimination was also established to aid and support the Ombudsman. Rules concerning these institutions are laid down in the Act against Ethnic Discrimination (1986:442).

11. The Ombudsman's field of activity encompasses every aspect of society except private life. He is required to pay special attention to ethnic discrimination in the labour market. He gives advice in individual cases and, on a more general level, his activities include discussions at work places and information at public meetings. All these activities serve to ensure that the legislation in this area is observed and to ascertain what further measures can be taken to counteract ethnic discrimination. The Ombudsman is empowered to require employers, on pain of a fine to negotiate with him and give him information.

12. The Advisory Committee on Questions concerning Ethnic Discrimination has essentially three tasks. First, it reviews decisions taken by the Ombudsman concerning threats of fines. Secondly, it advises the Ombudsman on important questions of principle. Finally, it proposes legislative measures or other action aimed at the prevention of ethnic discrimination.

13. The office of the Ombudsman against Ethnic Discrimination was described in the supplementary information (CCPR/C/32/Add.12) submitted by the Swedish Government pursuant to the consideration of its second periodic report. A detailed description was also submitted in the eighth periodic report by Sweden (in September 1987) under article 9 of the International Convention on the Elimination of all Forms of Racial Discrimination (CERD/C/158/Add.7, paras. 9-22). A translation of the Act against Ethnic Discrimination was enclosed as annex I to that report.

14. In this context, the rephrasing of the Swedish legislation on agitation against ethnic groups deserves to be mentioned. The amendments are described under article 19 and article 20, paragraph 2, below.

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15. A new Aliens Act (1989:526) came into force on 1 July 1989. It replaced the 1980 Aliens Act which was described in a supplementary report submitted in October 1985 (CCPR/C/32/Add.8). The new Act contains provisions aimed at a faster and more expedient decision-making process in cases concerning the entry into or residence in Sweden of aliens. The provisions in the 1980 Aliens Act concerning refusal of entry and expulsion of aliens presumed to be terrorists have been transferred, unaltered, to a separate Act on Proceedings to Prevent Deeds of Violence with an International Background (1989:530, 1989:531). This Act is normally referred to as the Act on Terrorists.

16. With the new Aliens Act, the right to asylum has been made more specific and is, as before, essentially more extensive than that provided for in the 1951 Convention relating to the Status of Refugees.

17. Certain amendments have been made concerning the right to appeal decisions in accordance with the Aliens Act in order to adapt the legislation to Sweden's international undertakings. A closer review of this and other novelties in the Aliens Act relating to the rights laid down in the Covenant is given under the different articles below.

18. The Aliens Ordinance (1989:547), which also came into force on 1 July 1989, contains more detailed rules on the way matters concerning aliens are to be handled in practice. Translations into English of the Act and of the Ordinance will be forwarded to the Committee as soon as they are completed.

Article 2, paragraph 2

19. With regard to the technique used in Sweden to implement an international agreement, reference may be made to the information submitted in earlier reports (CCPR/C/1/Add.9, p. 2, and CCPR/C/1/Add.42, pp. 1-3).

20. Legislative or other measures that have been deemed necessary to give effect to the rights recognized in the Covenant are described under the different articles below.

Article 2, paragraph 3

21. An important legislative reform, pertaining to the procedural guarantees provided by article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, has recently been introduced in Sweden. The Act on Judicial Review of Certain Administrative Decisions came into force on 1 June 1988 (see under art. 14, para. 1, below).

22. Chapter 22, sections 2 and 5, of the Code of Judicial Procedure were amended in 1988. In section 2, the amendments provide for an increased obligation for the public prosecutor to prepare and present an injured party's claim for damages. According to these amendments (here underlined) the public prosecutor should undertake the preparation and presentation if it is found not to be of essential inconvenience and the claim is not considered manifestly ill-founded.

Section 5 reads as follows (amendments underlined):

> "If the action for damages is brought in connection with the criminal proceedings, the court may decide that the matter shall be separated from the criminal proceedings and dealt with in accordance with the rules governing civil proceedings only if a continued joint procedure would lead to essential inconvenience."

23. A new law came into force on 1 July 1988 - the Act on the Plaintiff's Counsel (1988:609). This gives the injured party in criminal proceedings the right to legal counsel of his own, paid by the State, during preliminary investigations and court proceedings concerning certain crimes. The Act is primarily applicable when a case concerns an aggravated sexual assault. If it can be assumed that the plaintiff has an especially strong need of legal counsel, such counsel can be appointed also in cases concerning other types of crimes involving violence or infringement of integrity.

24. The counsel is appointed by the court on the plaintiff's request or when the court otherwise deems it appropriate. The legal counsel can be appointed as soon as the preliminary investigation has begun. The counsel's task is to support and help the injured party and to take care of his interests as regards the trial. The counsel is also supposed to help a plaintiff assisting the prosecution and to act as agent when there is a claim for damages.

Article 3

25. As stated in the initial Swedish report (CCPR/C/1/Add.9, p. 4), the principle of equality between men and women is laid down in the Constitution (chap. 1, sect. 2, and chap. 2, sect. 16).

26. In document CCPR/C/21/Rev.1, containing general comments adopted by the Human Rights Committee, more information is required regarding the role of women in practice. States parties are requested to give specific information in their reports about all measures, legislative or otherwise, designed to implement their undertakings under this article. For this reason, under this article, a more general description of the Swedish policy of equality between men and women will be given as well as some developments concerning the Equal Opportunities Act. In the light of the nature of the International Covenant on Civil and Political Rights, a description will also be given of Sweden's recent efforts to increase the influence of women in various public bodies. Further informtion concerning action on equality in Sweden may be found in the second periodic report of Sweden on measures taken to give effect to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW/C/13/Add.6).

General background

27. Equality between men and women continues to be a guiding principle of government policy in Sweden. The overall goal of this policy is that men and women are to have the same rights, obligations and opportunities in all fields of society. This means that every individual should have a job sufficiently paid to enable her or him to earn a living, that men and women should share responsibility for their children and the work of the home, and that both sexes should devote themselves to political, trade-union and other matters of common interest both at work and in the community.

28. Having removed the legal obstacles to equality, and having, during the last few decades, conducted a successful policy in the areas of employment, support to families with children, education, etc., there still, however, remains much to be done before de facto equality is achieved.

29. In this work, as experience in Sweden shows, it is not enough to stimulate individuals to change their pattern of living or choice of education and occupation. More attention also has to be paid to structural elements in society to see if they promote or prevent a fairer distribution of responsibilities and welfare between the sexes.

30. Although, in the Swedish view, the goal of equality must continue to be achieved through an active distribution policy and through temporary measures of affirmative action, it is also believed that the success of a policy on equality will ultimately depend on decisions taken by individuals, on their choice of education, occupation and their sharing of domestic work, etc. In this sense, equality neither can nor should be the subject of political decisions. On the other hand, a framework, legal or otherwise, must be created preventing discrimination and stimulating equality. Equality must thus be the guideline in all policy areas.

Plan of action for equality

31. In order to set the sights higher than formerly and to stress the need for accelerating the process towards equality, the Swedish Government in 1988 presented a bill to Parliament on an equality policy to the mid-nineties. The bill, which contains a five-year plan of action, was adopted by Parliament in June 1988. The plan comprises five different sectors, indicates within each sector the concrete goals that are to be attained by certain dates, and presents measures whereby the goals are to be achieved.

32. The sectors listed in the plan are:

- The role of women in the economy;
- Equality in the labour market;
- Equality in education;
- Equality in the family (with focus on the role of men);
- Women's influence (in various public decision-making bodies).

33. Common to all the measures proposed in the plan is the underlying concept that equality demands more adaptation of society; that women must be allowed to take part in all areas through their own capacities and qualifications, and that a society characterized by equality must take into account the needs of both men and women as parents and as bread-winners.

34. Measures are thus proposed and funds allocated to bring about a less sex-segregated labour market, to improve women's conditions and strengthen their position in working life and in education, to facilitate the combination of gainful employment with parental responsibilities and other commitments in

private life and to increase women's influence in various decision-making bodies. The measures include the launching of various trial schemes and the undertaking of studies and research in several fields.

The Equal Opportunites Act

35. In the plan of action, it is pointed out that the Act on Equality between Men and Women at Work (the Equal Opportunities Act) has been in force for almost 10 years and that it is time to make a closer study of the experience gained so far and to suggest measures to make the legislation more effective. The Act and its provisions were described in detail in the second periodic report of Sweden (CCPR/C/32/Add.6, para. 11, and Add.8 paras. 1-5) and in supplementary information submitted by Sweden (CCPR/C/32/Add.12, para. 17).

36. As a result of the plan of action, a special committee has been established by the Government to evaluate the Act. The aim is to make the Act a more effective tool in the development towards equality in working life.

37. The committee has been asked to study and analyse the fact that a predominance of cases concerning the public sector has been tried by the labour courts. The committee has also been asked to study the active measures undertaken at workplaces and the relationship between these measures and the existence of collective agreements. The committee will, furthermore, consider the question of sexual harassment, etc.

38. The result of this evaluation and the committee's proposals will be available in the spring of 1990.

Women's influence

39. The participation of women in various decision-making and advisory assemblies has increased substantially in Sweden in the past 10 to 15 years. Swedish women are now in a strong position compared with women in countries outside the Nordic area. This is true, above all, of their position in directly elected political bodies. Of the 349 members of the Swedish Parliament, at present (as a result of the 1988 elections), 38 per cent are women. This means that the number of women has doubled since 1971. Conditions in the municipal and county councils are very similar to those prevailing in Parliament.

40. The Swedish Government is composed of 7 women and 14 men. The women ministers are responsible for matters concerning the labour market, the environment and energy, foreign trade, international co-operation, equality affairs, migration; finally, the Minister of Justice is also a woman.

41. A topic much discussed in Sweden in recent years has been how democracy can be developed and made more far-reaching. Active efforts are made, at central and local level, to increase public involvement, participation and individual responsibility. The efforts are designed to bring decision-making closer to the individuals concerned, to make it easier for them to join in and exert influence.

42. Bearing this in mind, both Government and Parliament have paid much attention to the fact that women, although they have a strong position in

directly elected bodies, are underrepresented in indirectly elected bodies, such as boards of public authorities or government agencies at central and regional level, committees of inquiry or similar bodies.

43. In 1985, the Government set up a special committee to review the question of women's representation in public bodies at central and regional level and to recommend measures to strengthen their position.

44. In 1986, the committee presented an interim report which attracted much attention. It contained statistics on the distribution of the sexes in central and regional administration. A total of 88 central authorities, 175 bodies at county level and 12 ministries were covered. The same clear pattern was found: the higher up in the hierarchy, the fewer the women appointed. The reason, the committee reported, was that the election of representatives to boards of indirectly elected bodies was not as visible as, for example, the situation in general elections. Visibility, thus, is an advantage for women.

45. As a result of the committee's work and its proposals, the Government has set goals and proposed various measures to reach those goals in the above-mentioned plan of action. This means that, by 1992, the representation of women in these public bodies should have increased from 16 per cent (1986) to 30 per cent. By 1995, the representation of women should have reached 40 per cent, and equal representation should have been achieved within a 10-year period.

46. If the representation of women in 1992 does not reach at least 30 per cent, the question of legislation in this area will be considered by the Government. In the meantime, special funds have been set aside for the launching of various trial schemes aimed at testing new and unconventional methods within political parties, organizations on the labour market, etc. A special secretariat for these questions has been set up within the Ministry for Public Administration (the Cabinet Minister for Public Administration is also responsible for Equality Affairs).

47. In order to follow the development and to make the situation visible, the Government has undertaken to report yearly to Parliament on the actual number of women in these bodies. According to the figures for 1988, the representation of women is increasing steadily and there is hope that the goal of 30 per cent will be reached by 1992.

48. With reference to a statement made by one of the Swedish representatives during the consideration of Sweden's second periodic report (CCPR/C/SR.635, para. 42), it should be mentioned that women in Sweden today have the legal right to employment in all occupations, including every type of military career.

Article 4

49. As regards legislation concerning public emergencies and the other provisions of article 4, reference may be made to the information supplied in CCPR/C/1/Add.42, pp. 4-5. Since that report, there have been no legislative changes in this respect as far as any rights under the Covenant are concerned.

Article 5

50. The provisions of the Constitution and legislation in the area of criminal and public law are designed to prevent activities aimed at the destruction of any of the rights and freedoms provided for in the Covenant.

Article 6

51. The information supplied in previous reports still applies. It may be added that the Swedish Constitution prohibits the death penalty both in peacetime and in wartime (chap. 2 sect. 4).

Article 7

52. As before, the basic provision on protection against torture and other cruel, inhuman or degrading treatment is to be found in the Constitution (chap. 2, sect. 5) (see CCPR/C/Add.9, p. 5).

53. In June 1988, the Swedish Government submitted its initial report to the Committee against Torture (CAT/C/5/Add.1). That document contains extensive information pertaining to this article. Reference may therefore be made to that report in general, and especially to its paragraphs 19-22, 26 and 31-39. The Swedish report was the first report to be examined by the Committee against Torture. The examination took place in March 1989.

54. The 1989 Aliens Act contains extensive safeguards against any expulsion of an alien to a country where he risks political persecution and where there are substantial grounds for believing that he would be in danger of being subjected to torture (see under art. 13 below).

55. Compliance with the rules of the Helsinki Declaration containing guidelines concerning biomedical research involving human subjects is ensured by committees on ethics appointed by the university faculties of medicine in each region. This procedure is reinforced by a recommendation of the Federation of County Councils. The recommendation is designed to ensure that no medical research is undertaken in county council hospitals unless explicitly sanctioned by the relevant committee on ethics.

56. Efforts are being made in Sweden to introduce new and stricter rules as regards medical ethics. In March 1985, a National Council on Medical Ethics was established, in particular to maintain a continuous exchange of information and opinions concerning research and medical treatment of critical consequence to human integrity or capable of influencing respect for human dignity. The Council is composed of 7 members of political parties represented in Parliament and 11 expert members representing the medical sciences, the organizations of the disabled, the churches, philosophy, the fine arts and the law.

57. At the present time, a government committee is investigating possible means of establishing stricter standards regarding ethical problems in research. Its work deals mainly with such problems in respect of medical research. It is expected to put forward its proposals before the end of 1989.

Article 8

58. The constitutional guarantees against slavery and the slave-trade, servitude and forced or compulsory labour are to be found in chapter 2 of the Constitution. As stated in the initial Swedish report (CCPR/C/1/Add.9, p. 6), every citizen is protected against corporal punishment (sect. 5) and against violation of physical integrity in other cases (sect. 6). There are also safeguards surrounding cases of deprivation of liberty (sects. 8 and 9). These provisions are mutatis mutandis applicable to aliens in Sweden (sect. 20).

59. The freedom of movement guaranteed by the Constitution in chapter 2, section 8, is also a guarantee of the rights set out in this article. Further protection is offered by chapter 4 of the Penal Code on crimes against liberty, in particular the provisions on kidnapping, unlawful deprivation of liberty and placing a person in a distressful situation.

60. The information supplied in Sweden's second periodic report (CCPR/C/32/Add.6, paras. 16-19) still applies.

Article 9, paragraph 1

61. The right to liberty and security of person is guaranteed by a number of provisions under Swedish law, including the Constitution (chap. 2, sect. 8) and the provisions in the Code of Judicial Procedure concerning deprivation of liberty. The basic provisions were described in the initial report (CCPR/C/1/Add.9, pp. 7-8). Changes in the Code of Judicial Procedure are described in detail under article 9, paragraph 3, below. There are also rules concerning the deprivation of liberty applying to specific areas; these have also been described in previous reports. Some changes should, however, be noted with regard to those areas.

62. The supplementary report submitted in March 1979 (CCPR/C/1/Add.42, pp.10-11) referred to the 1973 Act on Provisional Custody. This Act has now been abolished and the rules contained in sections 1-3 of the Act have been transferred to the 1984 Police Act.

63. The Care of Alcoholics and Drug Abusers (Certain Cases) Act of 1981 has been replaced by the Care of Alcoholics, Drug Abusers and Abusers of Volatile Solvents (Special Provisions) Act (1988:870), which came into force on 1 January 1989. Although most of Sweden's social welfare legislation is to be found in the 1980 Social Services Act, this Act has from the outset been supplemented by legislation regarding compulsory care of abusers of alcohol and narcotics.

64. Compared with the earlier provisions, the new Act has in several respects expanded the facilities for compulsory care in connection with serious alcohol or drug abuse. Thus, it allows intervention at an earlier stage of abuse than was possible under the former rules. In addition, the maximum duration of compulsory care under the Act has been extended to six months (as compared with normally two months under the former Act). As is evident from its name, the new Act applies not only to abusers of alcohol and narcotics but also to abusers of volatile solvents.

65. Under the new Act, a person in need of care due to persistent abuse of alcohol, narcotic drugs or volatile solvents should be given such care, with or without his consent, on condition that the care needed cannot be provided under the Social Services Act or in any other voluntary way and that the abuser (a) seriously endangers his own physical or mental health, or (b) is running an obvious risk of ruining his life, or (c) is liable to inflict serious harm on himself or someone closely related to him (sect. 4).

66. A care order is issued by a country administrative court on application by the country administrative board (sects. 5 and 11).

67. As far as immediate care orders are concerned, the relevant passage in the new Act (sect. 13) reads:

> "The municipal social welfare committee or a police authority may issue an immediate care order for an abuser if
>
> "1. He can probably be provided with care by authority of this Act, and
>
> "2. The court care order cannot be awaited, since presumably his health status will be severely impaired if he does not receive immediate care, or because there is an imminent risk that, due to his condition, he will seriously injure himself or some person closely related to him.
>
> "If the social welfare committee's care order cannot be awaited, a care order may be issued by the chairman of the committee or by some other member acting by authority of the committee. The order is to be reported at the next meeting of the committee.
>
> "On the county administrative board having applied for compulsory care, the court may also make an immediate care order for the abuser."

68. A proposal for the replacement by Parliament of the Act on the Provision of Institutional Psychiatric Care (1966:293) (see CCPR/C/1/Add.9, p. 10, and CCPR/C/32/Add.6, para. 33) is planned for the spring of 1990. The intended legislation will be aimed at further limiting the use of compulsory psychiatric care.

69. The new Aliens Act contains provisions concerning the detention of aliens. The rules have been altered to a certain degree compared with the 1980 Aliens Act. However, in accordance with a parliamentary decision, the provisions of the 1980 Aliens Act on the prerequisites for detention are still in force. This decision, which was requested by some members of Parliament, was taken in accordance with chapter 2, section 12 (3), of the Constitution, and means that the provisions of the new Act will remain pending during a period of 12 months. The proposed new rules may come into force - at the earliest - on 1 July 1990. They may also have been rejected by Parliament in the meantime. Therefore, this report does not include information on the proposed rules concerning the prerequisities for keeping an alien in custody. The content of the 1980 Aliens Act in this respect is described in earlier reports (CCPR/32/Add.6, paras. 24 and 26, CCPR/C/32/Add.8, paras. 30-33, and CCPR/C/32/Add.12, para. 16).

70. A major feature of the provisions in force of the 1989 Aliens Act is to reduce the restrictions on an alien's freedom to what is necessary in the circumstances in a particular case. This means that detention may be applied only in exceptional cases and after a thorough investigation as to whether the purpose of detention can be achieved in another way.

71. Under the new Aliens Act, children below the age of 16 may not be detained unless there are extraordinary reasons for detention. The same rule applies to a child's custodian or, if there is more than one, to either of them. This means that, if a child would be separated from his or her custodian as a result of the detention of either the child or the custodian, the measure may take place only under extraordinary circumstances.

72. It is the authority handling the refusal of entry or expulsion that decides on detention. This authority is normally the police authority or the Swedish Immigration Board. In cases handled by the Government, the Cabinet Minister responsible for these matters may also make such a decision. The Government as such, however, may not decide to detain an alien. When refusal of entry or expulsion has been decided upon, the executive authority, too, may decide to detain an alien. Furthermore, the police authority may decide to place an alien in temporary custody if there is no time to wait for a decision from the authority handling the matter. Such a decision made by the police authority has to be submitted to the authority handling the matter, i.e. the Immigration Board or the Government, for adjudication.

73. Without extraordinary reasons, an alien may not be detained for more than two weeks. However, if a decision to refuse entry or of expulsion has been issued, an alien can be detained for a longer time. In such a case the time-limit is two months, unless there are extraordinary reasons for a longer period of detention. The decision has to be reconsidered within two weeks or, in a case where a decision to refuse entry or of expulsion has been issued, two months after the date of execution. If there is no reconsideration within the stipulated time-limits, the decision to detain an alien is no longer in force.

74. There are no statistics regarding lengths of detention periods. A decision to detain an alien under the Act normally takes place when he/she arrives in Sweden or is leaving the country following a decision to refuse entry or of expulsion. In those cases the time periods are very short, normally not exceeding one week.

75. The new Aliens Act further provides that a decision to detain an alien shall be reviewed continuously by the authority handling the matter or, when applicable, by the executive authority. If there is no longer any reason to keep the alien in custody, the decision has to be repealed immediately.

Article 9, paragraph 2

76. The provisions regarding information on the reasons for arrest are described under article 14, paragraph 3, below. One particular aspect can, however, be mentioned here.

77. When an immediate care order, under the Care of Alcoholics, Drug Abusers and Abusers of Volatile Solvents (Special Provisions) Act, is submitted to the court (see under art. 9, para. 4, below), the person taken into custody shall be allowed to study the documents in the case and be informed of his right to make a written statement to the court, to request verbal proceedings in the court and to receive legal aid in the form of court-appointed counsel (sect. 16).

Article 9, paragraph 3

78. As mentioned in part I above, new provisions on the deprivation of liberty have been enacted, in particular with regard to time-limits. Through amendments to chapter 24 of the Code of Judicial Procedure, in force as of 12 April 1988, the rules on deprivation of liberty have been adapted to developments in the interpretation of the European Convention on Human Rights concerning time-limits for examination of a detention on remand issue.

79. Under the new provisions, the prosecutor must submit a request for detention on remand on the same day as a provisional detention is decided or, at the latest, on the following day. If there are extraordinary reasons, the prosecutor may postpone his request to the competent court up to the third day after the day on which the provisional detention was made (sect. 12).

80. According to the amended rule in chapter 24, section 13, paragraph 1, of the Code, the court shall hold a hearing on the request for detention on remand on the same day as the request is submitted to the court or, at the latest, on the following day. Only in exceptional cases may the hearing take place later, but never more than 96 hours after the suspect was apprehended, or a decision on a provisional detention was executed. In other words, the court hearing concerning detention on remand must always take place within 96 hours of the actual deprivation of liberty (sect. 13, para. 2). Working days, Saturdays, Sundays and public holidays are equal in this respect. This means that the hearing must take place within four calendar days.

81. Because of the short time-limits for the court examination of deprivation of liberty under the amended rules, the courts are also given the power to detain a person on remand even if the investigation has not developed far enough to establish that he may be suspected on probable cause. ("Probable cause" would be a more correct translation of the main rule concerning the level of suspicion required than "reasonable grounds", as used in the report contained in CCPR/C/1/Add.9). Thus, a decision on detention on remand can be taken on the basis of reasonable suspicion. This level of suspicion is the same as that required under article 5 of the European Convention on Human Rights. The other prerequisites for detention on remand must be met, however. It must also be of particular importance that the suspect should be taken into custody pending further investigation (chap. 24, sect. 3). If there has been a decision to detain a person on reasonable suspicion, the question of detention on remand must be reconsidered within a week of the first decision (sect. 19). For the court to authorize a prolongation of the detention on remand, it must be satisfied that the person detained is suspected on probable cause of having committed the alleged offence.

82. According to the travaux préparatoires, prosecutors and courts should, as far as possible, within the new time-limit of 96 hours, take into account an obligation to stay for inquiry - under the Code of Judicial Procedure, chapter 23, section 9 - that has exceeded 6 hours and has then been followed by a provisional detention.

83. The current provisions in section 9 of chapter 23 of the Code of Judicial Procedure read:

> "A person not under provisional detention or in detention on remand shall not be obliged to stay for inquiry more than six hours. If it is of extraordinary importance that a person under suspicion for an offence remain available for continued inquiry, he shall be obliged to stay an additional six hours.
>
> "A person below the age of 15 shall not be obliged to stay for inquiry more than three hours. If it is of extraordinary importance for the investigation, the said person shall be obliged to stay an additional three hours.
>
> "After termination of the inquiry, or after the expiration of the time during which the person subject to the inquiry is obliged to stay, he may leave immediately. Without extraordinary cause, he may not be required to appear at a new inquiry sooner than in 12 hours."

84. The Government has initiated a study on the application of the new amendments to chapter 24 of the Code of Judicial Procedure. The main purpose of the study is to consider these rules with reference to the legal rights of the individual. The study is carried out by the National Courts Administration in collaboration with the Office of the Prosecutor-General, the National Prisons and Probation Administration and the Swedish Bar Association. They will present the results of the study in a report before the end of 1989.

85. The Swedish Government has previously made a statement (CCPR/C/SR.637, para. 6) regarding the time-limit in second instance. The statement calls for an adjustment. The time-limit mentioned refers to a main hearing in the courts of appeal or in the Supreme Court if the defendant is detained. Such a main hearing shall, in principle, be held within four weeks of the expiration of the time-limit for lodging an appeal against a lower court judgment.

86. In this context, it should also be mentioned that chapter 24, section 3, of the Code of Judicial Procedure, which provides for supervision as an alternative to detention on remand, has been transferred to section 4 of the same chapter. Paragraph 1 of this section reads:

> "If, owing to the age of the suspect, his state of health or other similar circumstance, it may be feared that detention would be seriously detrimental to him, he may be detained only if it is manifest that adequate supervision cannot be arranged. The same applies to a woman who has given birth so recently that detention may be expected to be seriously detrimental to the child. If the suspect does not wish to submit to supervision, detention shall take place."

Article 9, paragraph 4

87. Chapter 2, section 9 (2), of the Constitution provides that a citizen who, for reasons other than criminal charges, has been taken into custody, shall be entitled to have the issue tried by a court without undue delay. A trial by a special commission (nämnd) is deemed to be equal to a court trial, if the commission is composed in accordance with the law and its chairman is or has been a permanent judge.

88. Section 15 of the Care of Alcoholics, Drug Abusers and Abusers of Volatile Solvents (Special Provisions) Act provides that an immediate care order shall be submitted immediately to the county administrative court for consideration. Another provision states, generally, that judicial and other proceedings under the Act are to be dealt with promptly (sect. 37).

89. In judicial proceedings concerning the provision of compulsory care in which an immediate care order has been issued, the county administrative court has to try the case within one week of the day on which the application for care was received or, if the care order was made subsequently to the application of the county administrative board for care, within one week of the day on which the order was submitted for approval (sect. 38).

90. In the case of compulsory care, the county administrative court and the Administrative Court of Appeal shall hold oral proceedings, except where this is manifestly unnecessary (sect. 39).

91. Under the intended legislation regarding compulsory psychiatric care (see under art. 9, para. 1, above), compulsory care in general and compulsory care for criminals will, if the proposal is adopted by Parliament, be regulated in two different Acts. In both cases, the intended legislation provides for a legal review by the general courts.

92. According to the new Aliens Act, when a decision to detain an alien is to be reconsidered, the authority handling the matter of refusal of entry or of expulsion, or the executive authority, shall arrange for a hearing. This is normally held by either of the authorities mentioned but may also be assigned to another authority, usually a district court. The court, however, does not decide on the question of detention. Instead, the minutes of the hearing are handed over to the authority handling the matter or to the executive authority to serve as a basis for the reconsideration.

93. The decision to detain an alien is usually issued by the Swedish Immigration Board or a police authority. As mentioned above, the respo[illegible]ble Cabinet Minister may also take such a decision. All decisions may be appealed. An appeal against a decision issued by the Immigration Board or a police authority may be lodged with the Administrative Court of Appeal at Jönköping. An appeal against the decision of that court may be lodged with the Supreme Administrative Court, which can also on appeal review decisions made by a Cabinet Minister.

94. An alien who has been detained more than three days has the right to legal aid in the form of court-appointed counsel. However, since 1 July 1989, this limitation on the right to legal aid does not affect matters of asylum.

Article 9, paragraph 5

95. The information supplied in Sweden's initial report (CCPR/C/1/Add.9, p. 9) and in the second periodic report (CCPR/C/32/Add.6, paras. 29-30) with regard to compensation for unlawful arrest or detention still applies.

Article 10, paragraph 1

96. The rules concerning treatment of persons deprived of their liberty have been described in previous reports. However, the reference to chapter 26, section 4, of the Penal Code in the initial report submitted by the Swedish Government (CCPR/C/1/Add.9, p. 11) became obsolete as of 1 January 1989. On that date the Penal Code was amended, and the corresponding provision is now to be found in chapter 30, section 5, of the Penal Code. The new provision reads:

> "A person who has committed a crime before reaching the age of 18 may be sentenced to imprisonment only if there are extraordinary reasons.
>
> "A person who has committed a crime after reaching the age of 18 but before reaching the age of 21 may be sentenced to imprisonment only if there are special reasons with respect to the penal nature of the crime or otherwise."

97. As stated under article 9, paragraph 1, above, the Care of Alcoholics, Drug Abusers and Abusers of Volatile Solvents (Special Provisions) Act of 1988 provides for compulsory care for up to six months. Care is given in especially adapted institutions. It is not intended, however, that the abuser should spend the whole of this period confined to an institution. After a relatively short period in a compulsory care institution, it should normally be possible to transfer the abuser to some other, voluntary, form of care (e.g. residential treatment centres or different kinds of open care facilities). A person relapsing into abuse or absconding from the voluntary treatment programme may, however, be returned to the compulsory care institution if compulsory care began not more than six months earlier.

98. As stated under article 9, paragraphs 1 and 4, above, the 1966 Act on the Provision of Institutional Psychiatric Care is at present being updated. Under the prospective legislation, the patient's own need of care should be the prime motive for compulsory care. Society's interest in protection from the persons in question will not be as relevant a condition for compulsory care as it is in the existing legislation.

99. In other respects, the information supplied in the earlier reports on this subject still applies. It should, however, be added that the 1964 Act on Anti-Social Behaviour and the 1954 Temperance Act have been abolished. provisions on matters previously dealt with in the Temperance Act are now included in the 1980 Social Services Act and the 1981 Social Services Ordinance.

100. It is considered natural that an alien who is detained in accordance with the 1989 Aliens Act should stay in a place especially designed for the detention of aliens. The alien is not accused of a crime and should therefore not be subject to restrictions applied in criminal cases. Today, detained

aliens are usually housed close to their ports of entry in premises that resemble ordinary apartments. If such premises are not available, adult aliens may be detained in other suitable ways.

101. In extraordinary cases, due to the lack of housing facilities, a detained adult alien may have to stay in a prison, in custody for suspected criminals or under police arrest. Chapter 5, section 13, of the new Aliens Ordinance provides that, in such cases, an alien shall be given any relief and benefit that is possible having regard to order and security. The Act (1976:371) and the Ordinance (1976:376) on the Treatment of Detained and Arrested Persons and Others are applicable in all other respects. Information on these laws is included in the earlier reports submitted by Sweden (CCPR/C/1/Add.9, p. 10 (i), and CCPR/C/32/Add.6, para. 36). The 1989 Aliens Ordinance stipulates that detained children may not be kept in prisons, in criminal custody or under police arrest.

102. In general, a detained alien may count on not being subject to restrictions other than what follows from the detention as such. For instance, the alien will be refused access to newspapers and contacts with relatives and friends only in exceptional cases.

Article 10, paragraphs 2-3

103. As far as the treatment of accused and convicted persons is concerned, reference may be made to the information supplied in the initial report (CCPR/C/1/Add.9, pp. 10-12) and in the second periodic report (CCPR/C/32/Add.6, para. 36).

104. Although the Swedish Government in the main endorses the principle that young offenders shall be separated from adults, at the time of ratification of the International Covenant a reservation was made concerning the second sentence of paragraph 3 of article 10. The reason was that, in exceptional cases, it may be in the interests of a juvenile offender to be placed together with adult offenders. The Swedish Government still holds that view.

Article 11

105. The system of imprisonment on the ground of inability to fulfil contractual obligations does not exist in Sweden. (See also the explanation given in CCPR/C/SR.136, para. 31.)

Article 12

106. As described in previous reports, the Constitution provides that every citizen is free to move within the country as well as to leave and return to it (chap. 2, sects. 7-8). These rights are, however, restricted, for both aliens and nationals, by the rules concerning arrest, provisional detention and detention on remand described under article 9, paragraph 3, above. As described below, the 1989 Aliens Act contains certain restrictions on an alien's freedom of movement. An account of other new provisions concerning such restrictions is also given below.

107. The right to enter one's own country is guaranteed in chapter 2, section 7, of the Constitution, which stipulates that no citizen may be expatriated or prevented from entering the country. Further reference may here be made to the information included in Sweden's second periodic report (CCPR/C/32/Add.6, para. 37).

108. The provisions of the Passport Act and the Passport Ordinance, as described in CCPR/C/32/Add.6, paras. 44 et seq., have not been subject to any amendments affecting the rights protected in this article.

109. According to amendments in force as of January 1982 to the Code of Judicial Procedure, chapter 25, section 3, travel prohibition orders are no longer issued by the investigating authority. Only the prosecutor or the court may issue such orders (see CCPR/C/1/Add.42, p. 7).

110. Under the Care of Alcoholics, Drug Abusers and Abusers of Volatile Solvents (Special Provisions) Act of 1988, a person receiving care in an institution designed for especially close supervision may be prevented from leaving the institution and may in other respects have his freedom of movement restricted to the extent necessary for the care. His freedom may also be restricted when necessary out of consideration for the safety of other inmates or the staff (sect. 34).

111. Under the Act on Restraining Orders (1988:688), which entered into force on 1 July 1988, better protection is provided for persons who are pursued or harassed by other individuals. The Act is part of the efforts to increase the protection, in particular, of women who are victims of assault and other crimes of violence.

112. Under this Act, a person may be given restraining orders, i.e. be prohibited from visiting or in other ways contacting another individual or to pursue that individual (besöksförbud). Such a restraining order may be issued if it can be assumed, in the light of special circumstances that there is a risk that someone will commit a crime harming another individual, that someone will pursue another individual or that someone will seriously harass another person in any other way. When the matter is considered, special attention must be paid to whether the person in question has previously been found guilty of any crime aimed at the other person's life, health, freedom or peace.

113. If there is reason to believe that a restraining order will not suffice, the prohibition may be extended to encompass also a prohibition against staying in the neighbourhood of the other person's home, place of work or some other place which the harassed person usually visits.

114. A restraining order may be subject to restrictions and exceptions that are called for by the circumstances in the individual case. Such a restraining order may be issued with effect for not more than one year. It may, however, be extended for one year at a time.

115. A restraining order is issued by a prosecutor. Following a request from the person in question or the person protected by the order, the prosecutor's decision will be reviewed by a district court. Appeals against the decision of the court can be lodged with the court of appeal. A person who fails to abide by the prohibition may be sentenced to a fine or to a maximum of six months' imprisonment.

116. The National Council for Crime Prevention was recently charged by the Government with evaluating the experience gained so far of the legislation concerning restraining orders. The Council's report, with certain proposals to improve the legislation, has been forwarded by the Government to the Prosecutor-General and the National Police Board. These authorities have to report back to the Government on the measures taken on the basis of the evaluation report. The Government will then decide whether further measures are necessary to make the legislation more effective.

117. If necessary for reasons of national security, an alien lawfully within Sweden may, according to the 1989 Aliens Act, chapter 12, section 1, be prohibited from visiting certain areas of the country or from certain kinds of employment. These provisions also appeared in the legislation which has been replaced (see CCPR/C/32/Add.6, paras. 38-40 and 43). The rules allowing the Swedish Immigration Board to limit a residence permit to a specific part of the country, however, were abolished with effect from 1 July 1989.

118. It should also be mentioned that, in accordance with the new Aliens Act (chap. 4, sect. 11) and the 1989 Act on Terrorists (sect. 17), the Government may restrict an alien's liberty of movement. This can be done if a decision of expulsion for reasons of national security is issued. It is also allowed when an alien seems capable of becoming involved in acts of terrorism and the decision to expel him cannot be executed due to the fact that he risks political persecution in his own country.

119. In times of war and danger of war, the Government may issue restrictions concerning the right of aliens to reside in the country, to engage in employment etc. (Aliens Act, chap. 12, sect. 4).

120. The Swedish Government gave a detailed description of the rules regarding residence permits and citizenship in a supplement (CCPR/C/32/Add.8) to its second periodic report. The information regarding permanent residence permits, citizenship and legal aid still applies.

121. Since 1 July 1989, a residence permit means that an alien has the right, without any restrictions, to enter and reside in Sweden for the duration of the permit.

122. Since 1 July 1989, children below the age of 16 receive permits to reside and to work if their parents are living in the country and are holders of such permits. This is for purely practical reasons.

123. The issue of the rights of a group of Kurds, regarded as a threat to national security, was dealt with during the consideration of the second periodic report and in the supplementary information submitted by Sweden in July 1986 (CCPR/C/SR.637, paras. 33 and 35, and CCPR/C/32/Add.12, para. 20). A more complete account of the matter is now submitted.

124. In December 1984, the Swedish Government issued expulsion orders for nine Turkish citizens of Kurdish descent on the grounds that they were suspected terrorists pursuant to sections 30 and 47 of the 1980 Aliens Act.

125. At the same time, the Government decided that the expulsion should not be executed due to political impediments to enforcement. In connection with

this decision, the Government, in accordance with sections 48 and 74 of the 1980 Aliens Act, prescribed certain restrictions and conditions concerning the aliens' place of residence and their duty to report to the authorities.

126. Before the Government made the above-mentioned decisions, there were inquiries before the District Court of Stockholm. During the inquiries, the nine persons were given legal assistance of their own choosing.

127. The Swedish Government has reconsidered the expulsion orders, as well as the orders prohibiting enforcement, several times since December 1984, the last time being in May 1989 when two of the expulsion orders were reversed.

128. Pursuant to the Government's decision of December 1984, the National Police Board may make exceptions to the prescribed restrictions and conditions concerning the aliens' place of residence, etc. Exceptions are granted on a regular basis. For instance, the National Police Board decided on exceptions to the restrictions and conditions prescribed for the persons in question on 11 occasions during the period August 1988-July 1989.

129. On several occasions, the aliens have violated the prescribed restrictions and conditions concerning their place of residence, etc. As a result, they have been tried before a district court, pursuant to section 97, paragraph 2, of the 1980 Aliens Act. In most cases, they have been sentenced to short terms of imprisonment.

130. The aliens in question have frequently made use of their right to appeal against the courts' decisions and their appeals have been tried by the courts of appeal. Recently, the Supreme Court tried two such appeals. In both cases, the Supreme Court upheld the prison sentences pronounced by the lower courts.

131. In this connection, it should also be stressed that the aliens in question are free to leave Sweden whenever they want.

132. In principle, the persons in question do not have permission to live in Sweden. The reason why they have not been expelled from the country is purely humanitarian, based on the fact that they risk political persecution if the expulsion orders are executed. It might therefore be argued that they are not lawfully in the country. Accordingly, they would not come within the purview of article 12 of the Covenant.

133. If, on the other hand, the aliens in question were to be considered to be lawfully in Sweden, the decisions taken by the Swedish authorities would none the less be in accordance with international standards of human rights. The Swedish Government's decision to issue expulsion orders was taken in accordance with, inter alia, article 13 of the Covenant. The decision was "reached in accordance with law" and, due to "compelling reasons of national security", there is no obligation to have the Government's decision reviewed by any other authority.

Article 13

134. The Swedish Government holds the view that aliens (tourists excluded) who have not been granted residence permits are not lawfully within the country. The report, therefore, does not go into great detail regarding the concept of

refusal of entry. However, as this concept may have a somewhat wider application in Sweden than in other countries and has been dealt with in previous reports submitted by the Swedish Government (CCPR/C/32/Add.6, para. 62, and CCPR/C/32/Add.8, paras. 21-22), some information will be given below.

135. The terms "refusal of entry" and "expulsion" have been given a somewhat different meaning as a result of the new Aliens Act. Prior to 1 July 1989, a decision to refuse entry could be issued, at the latest, three months after the alien's arrival in Sweden. In the majority of cases where such decisions are issued, this time-limit has now been abolished. A decision to refuse entry may at present be issued regardless of how long a time the alien has stayed in Sweden.

136. The two concepts, refusal of entry and expulsion, are now, in this respect, distinguished only by how attached the alien has become to Sweden during his stay in the country. Refusal of entry is applied in cases where the alien is not and was not, at the time when the question arose, a holder of a residence permit. In such cases the decision to remove the alien from the country is made by an administrative authority.

137. Expulsion, on the other hand, signifies removal of an alien who stays in the country after his residence permit has expired. The term "expulsion" is also used when an alien has been found guilty of a crime of a certain gravity or is considered a risk to national security.

138. Refusal of entry on formal grounds (e.g. lack of passport, visa, residence permit or any other permit required for entry, residence or work in Sweden) may, as stated above, take place regardless of the length of time since the alien arrived.

139. A decision to refuse entry may also be issued on material grounds, for instance in a case where the alien does not have enough money to sustain himself during his stay in Sweden or if he can be expected to engage in criminal activity (Aliens Act, chap. 4, sect. 2). There are no specific rules as to the amount of money an alien should possess in order to be considered as having enough for his upkeep. An <u>in casu</u> estimate is made on the basis of information supplied by the alien at the port of entry. An alien cannot be refused entry on these material grounds later than three months after his arrival in Sweden.

140. Normally, a decision to refuse entry is issued by a police authority. The question of refusal of entry has to be handled by the Swedish Immigration Board if the alien applies for asylum in Sweden, if he has a close member of his family applying for asylum in Sweden or if he has stayed continuously in Sweden for more than three months. Even in the absence of these circumstances, the police authority may hand over such a matter to the Immigration Board (Aliens Act, chap. 4, sect. 4). The police authority's decision may be appealed to the Immigration Board. Appeals against the decision of the Board can be lodged with the Government.

141. An alien lawfully within Swedish territory may not be expelled from the country unless the matter has been decided upon by the proper authority and the alien has had an opportunity to have the decision reviewed by a higher authority.

142. An alien who remains in the country after his residence permit has expired or been revoked may be subject to expulsion (Aliens Act, chap. 4, sect. 3). An alien who has committed a crime of a certain gravity or who may be considered to be a risk to national security may also be expelled (Aliens Act, chap. 4, sects. 7 and 11). Furthermore, expulsion may be decided upon with regard to aliens presumed to be terrorists (Act on Terrorists, sect. 3).

143. Expulsion on the grounds of an expired residence permit is decided upon by the Swedish Immigration Board. Normally the decision of expulsion is combined with a ban prohibiting the alien to return to Sweden for, usually, two years (Aliens Act, chap. 4, sect. 14). Appeals against the decision can be lodged with the Government.

144. The provisions on expulsion on grounds of criminal activity have been transferred, unaltered, to the new Aliens Act (chap. 4, sects. 7-10). Thus the information in Sweden's second periodic report still applies (CCPR/C/32/Add.6, paras. 54-56 and 58). However, the provisions on expulsion on account of anti-social behaviour have been abolished with effect from 1 July 1989. These rules, however, had little significance in practice.

145. It is possible to appeal an expulsion order on the grounds of a crime in the same way as a sentence in criminal proceedings, i.e. first to a court of appeal and then to the Supreme Court.

146. The rules regarding expulsion on grounds of national security (Aliens Act, chap. 4, sect. 11) and expulsion on grounds of presumed terrorist activity (Act on Terrorists, sect. 3) have not been altered (see CCPR/C/32/Add.6, para. 61). It should be added that the provisions concerning terrorists are at present being reviewed by a parliamentary committee. A report will probably be available before the end of 1989. In this context, it should also be mentioned that the provision on expulsion of aliens on the grounds of national security has not been applied during the last decades.

147. The Government issues decisions of expulsion on the grounds of national security and presumed terrorism. There are no possibilities of appeal.

148. The provisions on the execution of refusal of entry or expulsion orders have in principle been transferred unaltered to the new Act. New rules have, however, been introduced regarding two aspects. Chapter 4, section 12, of the 1989 Aliens Act stipulates that the authority which issues a refusal of entry or expulsion order shall take into consideration any possible obstacles to the execution of the order. This means that, if at the time of the decision it becomes evident that the decision cannot be executed, the authority shall decline to issue the order. Secondly, an absolute prohibition has been introduced in the Aliens Act against the execution of a refusal of entry or expulsion order to a country where the alien in question will risk the death penalty, torture or corporal punishment (Aliens Act, chap. 8, sect. 1). A similar prohibition was previously adhered to in practice, but it is now expressly stated in the Act.

149. A decision to refuse entry or of expulsion is executed by a police authority. If such an authority finds that the decision cannot be executed, it must inform the Swedish Immigration Board. The Board will then decide whether the decision shall be executed or not (Aliens Act, chap. 8, sect. 13). The Board may inhibit the execution. If the execution concerns a decision to expel someone on the grounds of crime the Board must submit the matter to the Government immediately. If the obstacles to execution are deemed permanent, the Board or the Government may set aside the decision of refusal of entry or expulsion (Aliens Act, chap. 7, sects. 15-16).

150. In this context, the right to asylum and the possibility for an alien to receive a residence permit in Sweden should also be mentioned. As was touched on under article 2, paragraph 1, above, the concept of asylum has been redefined in the new law. Asylum now means a residence permit issued to an alien because he is a refugee according to the 1951 Convention relating to the Status of Refugees, a war service resister or a de facto refugee, i.e. a person who does not want to go back to his own country and can give very weighty reasons for his decision (Aliens Act, chap. 3, sect. 1). If the alien belongs to any of these groups of persons he has the right to an asylum/residence permit (Aliens Act, chap. 2, sect. 3). A residence permit may also be issued for humanitarian reasons and because of the alien's close attachment to Sweden (Aliens Act, chap. 2, sect. 4).

151. With reference to the information given in the supplementary report submitted in July 1986 on the handling of asylum matters (CCPR/C/32/Add.12, para. 16), the following should be added. Under the new Aliens Act, the police authority may no longer handle asylum matters. However, the police authority still conducts a preliminary inquiry with the alien. After that, the matter is promptly submitted to the Swedish Immigration Board, which makes the decision. Following a recent reorganization of the Board, the majority of decisions are made locally at the larger ports of entry. That is also where the policy inquiry takes place. Normally, an alien stays in one place during the whole investigation and until the decision is issued.

152. An alien who has asked for asylum is normally entitled to remain in the country while awaiting the decision and the outcome of an appeal, if any. If the request for asylum is manifestly unfounded, the Immigration Board has the power to decide that the decision to refuse entry should be carried out immediately. In certain cases such a decision may be inhibited. Even if a legally binding decision has been issued to the effect that the alien shall leave Sweden, and it has been decided to carry out that decision, the alien can make a new request for a residence permit (Aliens Act, chap. 2, sect. 5). This request can be granted only if it is based on circumstances that have not been referred to before. If the new request is denied, the decision of refusal of entry or explusion will be carried out.

153. According to amendments to the 1972 Act on Legal Aid, which came into force on 1 July 1989, it is for the Swedish Immigration Board or, in certain situations, the police authority to decide on matters concerning legal aid for aliens.

Article 14

154. In 1984, the Human Rights Committee adopted a general comment on article 14 (CCPR/C/21/Rev.1), in which it expressed the wish that States report in more detail concerning certain aspects of the article. Taking this into account, the Swedish Government submits the following information.

155. The main provisions on the administration of justice are to be found in the Constitution. Under chapter 11, section 2, no authority, not even Parliament, may decide how a court shall otherwise apply a rule of law in a specific matter. This rule is fundamental to the independence of the courts in relation to the executive and legislative powers. Furthermore, chapter 2, section 11, of the Constitution stipulates that a court may not be established in order to deal with a crime that has already been committed. Nor may a court be established for a specific case.

156. The general courts, which deal with criminal cases and disputes of a private character, constitute a system with three levels or instances. The first instance consists of 97 district courts. Their decisions can be appealed to a court of appeal. There are six such courts. An appeal against the decision of a court of appeal may be lodged with the Supreme Court. This Court, however, concerns itself mainly with cases which are of interest from the point of view of creating precedents. The administrative courts, which handle matters concerning differences between private subjects and public authorities (excluding criminal matters), are divided in the same fashion.

157. Chapter 4 of the Code of Judicial Procedure contains provisions concerning judges. Both judges who are learned in the law and lay judges serve in the general courts. In the district courts and the courts of appeal, there are permanent judges and judges who are being trained to become permanent judges. A permanent judge is appointed by the Government. The Constitution prescribes that a permanent judge, except where the judge has reached the age of retirement, can be separated from office only if found guilty of a crime or has proved manifestly unsuitable to stay in office due to repeated negligence. A judge who has been dismissed may have the matter reviewed by a court.

Article 14, paragraph 1

158. Article 14, paragraph 1, deals with the right to a fair and public hearing by an independent tribunal. As stated under article 2, paragraph 3, above, a new Act, pertaining to certain procedural guarantees, entered into force on 1 June 1988. A translation into English of the new Act is enclosed (annex I).

159. Briefly, the reform means that, in principle, all administrative decisions which under the present legislation cannot be brought before a court, can be reviewed by the Supreme Administrative Court. Section 1 of the Act regarding Judicial Review of Certain Administrative Decisions reads:

> "At the request of a private party, in such administrative proceedings before the Government or an administrative authority as pertain to any situation envisaged by chapter 8, sections 2 and 3, of the Constitution, the Supreme Administrative Court shall review the issue whether the decision in the case is contrary to any legal provision.

"Judicial review may pertain only to such decisions as:

"Imply exercise of public authority regarding a private subject,

"May otherwise be reviewed by a court only following a request for relief for substantive defects, and

"Which could not otherwise have become subject to review."

160. It should here be added that chapter 8, sections 2 and 3, of the Constitution deal with acts concerning an individual's legal position and his/her personal and economic relations with other individuals, and the position of the individual in relation to the State as far as the obligations of individuals or interference in their personal and economic affairs are concerned.

161. The reason for the enactment of the new legislation was that Sweden had at that time lost three cases brought before the European Court of Human Rights under article 6 of the European Convention on Human Rights. The Court found that Sweden had not, in this particular respect, fulfilled the obligation to entitle everyone to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law for the determination of an individual's civil rights and obligations.

162. The purpose of the new Act is thus to ensure that Swedish law is in conformity with Sweden's obligations under article 6 of the European Convention. The possibility of review by the Supreme Administrative Court encompasses administrative decisions which conern the determination of "civil rights and obligations" in accordance with article 6 of the European Convention, but in reality the Act covers an even wider area. During a first trial period, the Act will apply to administrative decisions taken during the period from 1 June 1988 to 31 December 1991.

163. As an example of the field of application of the new Act regarding Judicial Review of Certain Administrative Decisions, the following may be mentioned. In November 1988, the Government granted exemption from a general prohibition, under the Building Ordinance, to build on certain property. The application had previously been rejected by the local building committee and the county council. Some owners of neighbouring properties applied, under the new Act, to the Supreme Administrative Court for a judicial review of the Government's decision. They argued that they had not, as they should have, been given an opportunity to state their opinion regarding the application for exemption. The Government admitted that this, through an oversight, had not been done. The Supreme Administrative Court in June 1989 declared the Government's decision invalid and the case was returned to the Government.

164. As far as equality before the law is concerned, the question of litigation costs in cases concerning taxation has been posed by a member of the Human Rights Committee (see CCPR/C/SR.637, para. 16). In addition to what has already been stated on this subject (see CCPR/C/32/Add.12, para. 8), it should be pointed out that Parliament recently enacted a new law making it possible to award a taxpayer compensation for his costs in a case concerning his taxation. The conditions are that the costs were necessary (since tax courts are responsible for the investigation in tax cases the individual

normally does not need to incur any costs), and that it is considered unreasonable that he should bear the costs himself. When determining whether it is unreasonable that he should bear the costs, circumstances such as the individual's economic position are to be considered. However, the main rule is still that each party bears his own litigation costs independently of the outcome of the case.

165. The possibilities, in general, for holding proceedings in camera were reported on in the supplementary report (CCPR/C/32/Add.12, paras. 6-7) pursuant to the consideration of Sweden's second periodic report.

166. The 1989 Aliens Act contains rules on hearings in certain matters concerning aliens (chap. 6, sects. 12-15). The provisions concern mainly the prolongation of detention periods (see under art. 9, para. 4, above). Hearings held by a district court or by an administrative authority, normally the Immigration Board, take place, in principle, in the form of a public hearing. The ordinary rules regarding public court hearings are then applied (Code of Judicial Procedure, chap. 5, sect. 1). In addition, the authority may decide that the hearing shall be held behind closed doors if secret information is expected to be revealed otherwise (Aliens Act, chap. 6, sect. 14, compared with the Code of Judicial Procedure, chap. 5 and the Code of Administrative Judicial Procedure (1971:291), sect. 16).

167. There are no rules on public hearings regarding other matters where aliens are concerned. However, under the new Aliens Act, the Immigration Board has been instructed to arrange hearings in matters of asylum on condition that this may be an advantage for the investigation or be conducive to a speedy determination of the matter. In addition, a hearing shall take place following the alien's request, unless such a hearing would be irrelevant to the question of an asylum/residence permit (chap. 11, sect. 1).

168. Hearings in this sense mean, in the first place, informal meetings between the civil servant handling the matter, the alien and his court-appointed counsel. Such hearings are not public; they must be seen as part of the investigation. In certain cases there are reasons to let the hearing assume a more contradictory character. This is the case when a third party, for instance a doctor or a relative of the alien, has to be questioned in view of information supplied by the alien on arrival.

169. As stated above, there are no provisions on how to hold such hearings in practice. It is assumed that the Immigration Board, applying the provisions in the Code of Administrative Judicial Procedure analogously, will keep a hearing public to the extent that that is allowed under the provisions of the Code of Judicial Procedure and the Secrecy Act.

Article 14, paragraph 2

170. In its general comment on article 14, paragraph 2, the Committee found that States parties supplied insufficient information regarding the right to be presumed innocent until proved guilty in criminal cases. It should therefore be recalled that, under Swedish law, the burden of proof lies entirely with the prosecution. There are no exceptions whatsoever to this rule. A convictive verdict requires, with no exceptions, that the charge shall have been proven beyond reasonable doubt.

171. Furthermore, an accused person is regarded as innocent until his guilt has been established through a judgement which has gained legal force. This does not prevent the use of different forms of coercive measures, such as detention on remand, travel prohibition and provisional attachment, when there is only a lower level of suspicion, in order to secure the proceedings and the future execution, if any.

Article 14, paragraph 3

172. Paragraph 3 of article 14 deals with minimum guarantees for the determination of criminal charges. Under Swedish law, a preliminary investigation is initiated when there is reason to believe that a crime has been committed. The purpose is to find out who may reasonably be suspected of having committed the crime and to prepare the case for trial. The preliminary investigation is carried out by the police authority in minor cases. In all other cases, a prosecutor is in charge. Once the investigation has reached the point when someone may be regarded, on reasonable grounds, as a suspect, that person will be heard. At the same time, he will also be informed of the charge, of his right to engage a defence counsel even at the stage of the preliminary investigation and, subject to certain conditions, to obtain a court-appointed counsel.

173. A suspect always has the right to court-appointed counsel if he is provisionally detained or detained on remand. This rule also applies when a person is suspected of having committed a crime for which a minimum of six months' imprisonment is prescribed. If there are special reasons, counsel may also be appointed in other cases. For instance, the investigation itself may be of such complexity that a defence counsel is deemed appropriate. Another reason is that it is difficult to predict which sanction the court will apply in the case of a convictive verdict. A court-appointed counsel is paid by the State. If the suspect is convicted of the crime, however, he may be obliged to repay some or all of the costs, mainly depending on his own economic situation.

174. After being charged, the suspect and his defence counsel have the right to be continuously apprised of the findings which emanate from the preliminary investigation, unless this would be detrimental to the investigation itself. The prosecutor is obliged, within reasonable limits, to conduct further investigations at the request of the suspect or the counsel. The prosecutor may not decide to prosecute unless the suspect and his counsel have had enough time to decide whether they wish the investigation to continue.

175. It should be added that a preliminary investigation is not mandatory for offences punishable only by a fine. The majority of such cases are decided when the suspect agrees to a fine decided by the police authority or to an order issued by a prosecutor in accordance with a summary procedure for petty cases. If the suspect does not agree, the prosecutor will decide to bring the case to court.

176. The prosecutor prosecutes - in both ordinary cases and petty cases where only fines are prescribed - by delivering a summons application to the court. The application contains a statement of what the suspect has done and what crime this constitutes according to the prosecutor. The court issues a summons to the suspect, i.e. a request for the suspect to answer to the

accusation. Usually, the suspect is summoned to a hearing before the court at the same time. The workload in the courts, at present, is such that a court hearing can be held within a relatively short time after the prosecutor has submitted his summons application, normally within a few months.

177. All criminal cases in first instance are decided after a public hearing before the court. The prosecutor, the defendant and his counsel are summoned to the hearing. The defendant has the right to question witnesses called by the prosecution or to let his counsel question them. He has also the same right as the prosecutor to call witnesses. If a person, who does not understand the Swedish language is acting in any capacity during the trial, the court is obliged to call an interpreter. The interpreter's fee is paid by the State.

178. Although it is not a question of criminal charges, it may be noted that trials in tax courts (administrative courts) are normally handled in writing. An individual who wishes to conduct his case orally may be allowed to do so if the court in question does not find this superfluous. According to an Act (1987:1217) adopted in December 1986, a person is entitled to appear personally in court in cases concerning a tax penalty if he wishes to do so, even if the court finds this unnecessary. The only exception is when the court finds it improbable that a tax penalty will be imposed.

179. In its report submitted pursuant to the consideration of its second periodic report (CCPR/C/32/Add.12, para. 9), the Swedish Government supplied information on the subject of trials in absentia. Chapter 46, section 15 (2), of the Code of Judicial Procedure, which states two prerequisites for a main hearing in absentia, has been amended as of 1 July 1988 by an additional third paragraph. Under the new provision, the court may determine the case in absentia if the defendant suffers from mental illness or a mental deficiency and his presence is not required because of that affliction. This amendment was made only in order to clarify the previous provisions.

180. Under Swedish law, neither the defendant nor the plaintiff is obliged to testify under oath. This is explained by the fact that the legislator wished to avoid the risk that they might be tempted to commit perjury. Also, the defendant must not be induced to plead guilty.

181. The Swedish rules of evidence are based on the principle of free examination of evidence. This freedom extends to both the production and the evaluation of evidence.

182. Consequently, there are no limitations or prohibitions with respect to the kind of evidence that may be produced in court (unnecessary evidence is, however, to be rejected by the court pursuant to the Code of Judicial Procedure, chap. 35, sect. 7). The court is not bound by any directions provided by law in assessing the value of the evidence produced (Code of Judicial Procedure, chap. 35, sect. 1).

183. The Swedish judicial procedure is, furthermore, based on the principles of oral proceedings and immediacy. That means that the judgement may be based only on what has occurred during the main hearing (the trial).

184. The defendant, the plaintiff and the various witnesses are normally heard before the court. Statements made during the preliminary investigation may be quoted, i.e. read aloud at the trial, only if a person gives testimony that is at variance with his previous statement, or if he refuses to testify.

185. Thus, a defendant is in fact free to make a statement that contradicts what he has told the police authority. He will then, of course, be asked by the prosecutor to explain the reason for the deviation from the previous statement. It is the duty of the court, taking into consideration all relevant circumstances, to decide which statement contains the most trustworthy version of the events. If the defendant can give a good explanation for deviating from his earlier position, the court may well accept this explanation.

Article 14, paragraph 4

186. Under Swedish law, children below the age of 15 may not be sentenced to punishment for criminal activities, nor may they be subjected to other judicial measures on account of crime. The responsibility for taking measures in such cases lies with the social welfare authorities.

187. Under legislation adopted in 1985, the police authority was given increased competence to conduct investigations concerning crimes committed by children below the age of 15. Prior to 1985, the police could interrogate a child only in specific cases, for instance to find out if someone over the age of 15 had been party to a crime, or to look for stolen property, or if it was otherwise deemed important to obtain information from the child regarding the crime. Under the amended legislation, the police may now also conduct an investigation in order to ascertain whether there is any need for action involving the social welfare services. It is for the social welfare committee to decide whether such an investigation should take place or not. Children below the age of 12 may be subject to investigation only in exceptional cases. When a child is questioned, a representative of the social welfare services, the parents or other custodians are normally present. It is assumed that interrogations in such cases will be conducted by policemen who have the experience and special aptitude required by the task.

188. By the amendments of 1985, the question of the cases in which a child may be brought in for inquiry or detained for this purpose is expressly regulated. The new rules also stipulate that, in principle, a child may be obliged to stay for inquiry only during three hours, compared with six hours prior to the amendments (see under art. 9, para. 3, above).

189. Citizens in general may temporarily apprehend a child caught red-handed in accordance with the same rules as those that apply to persons above the age of 15. The police authority should be contacted immediately and should, if necessary, question the child. However, the child may never be placed under police arrest. Coercive measures - such as seizure, search of premises and personal search - may, subject to certain restrictions, be applied to children below the age of 15 who are suspected of criminal activity.

190. Swedish legislation also makes it possible to conduct evidential proceedings, i.e. to try to determine whether someone below the age of 15 has committed a crime or not. An application for such a procedure is submitted by

the prosecutor to the court. This may be done only if it is required from a general point of view, for instance when the social welfare committee would otherwise have difficulty in finding out who has committed a crime, or when the crime in question is a very serious one. To be able to submit such an application, the prosecutor has to have a request from either the social welfare committee, the county administrative board or the child's custodian. The court's decision contains only a statement that it has or has not found that the child has committed the crime in question. Such evidential proceedings have been used very seldom.

191. As far as young persons above the age of 15 are concerned, the following deserves to be mentioned. It is a long-standing principle of Swedish law that young offenders, as far as possible, should not be brought to court or be subjected to regular treatment for offenders. It is primarily up to the social welfare services to take care of young criminals. Prosecution should be waived if it can be hoped to reach as good or better correctional results for a young offender without prosecution.

192. Under the Act containing Certain Provisions on Young Offenders (1964:167), prosecution is largely waived in regard to youngsters between the ages of 15 and 18. The main provision on waiver of prosecution appears in section 1. Two main cases may be discerned. The first is when the young person is primarily taken care of by the social welfare authorities and when such measures are deemed more appropriate than prosecution. The second case is when the crime is a result of mischief or hasty behaviour. The latter case concerns mainly criminal acts which were committed by chance or may be seen as a result of foolishness on the part of the young offender.

193. Before the prosecutor decides on prosecution, he must have a statement from the social welfare committee regarding the young offender. In this statement, the social welfare authorities make it clear whether they have already taken or intend to take any measures regarding the person in question and whether such action is deemed to be the most appropriate for him. Such measures are taken under the Social Welfare Act (1980:620) and are based on the young person's own free will. The young offender, therefore, has to co-operate. Under the Care of Young Persons (Special Provisions) Act (1980:621), the social welfare authorities may also take a young offender into custody or decide on less far-reaching measures that do not presuppose the consent of the young person. (For further information regarding proposed legislation in this field, see under art. 24 below.)

194. The prosecutor may, however, decide not to waive prosecution if an essential public or private interest would be set aside by such a decision (Act containing Certain Provisions on Young Offenders, sect. 1). In this regard several matters have to be considered: the gravity of the crime, the circumstances surrounding the crime, the need to find out who has committed the crime, who is liable to pay damages and, finally, the need to decide on forfeiture. The prosecutor should also consider what measure would be the most suitable for the young offender. A reason for prosecution is that the prosecutor deems it appropriate that the offender pay a fine in addition to measures taken by the social welfare authorities. Under the legislation in force, it is not possible to combine a waiver of prosecution with a fine in the case of the same crime.

195. A young offender who has been the subject of a waiver of prosecution must behave in an orderly manner. A relapse into crime may lead to a reversal of the decision to waive prosecution, and the young offender will be put on trial. These matters have to be handled with great speed. If a waiver of prosecution is not decided on, the case must be prosecuted without delay.

196. The law also contains provisions on how a trial shall be conducted in order to make the proceedings as merciful as possible for persons who are under 21 years old when prosecuted. A person under the age of 18 may be detained on remand only if there are extraordinary reasons for such a coercive measure. Courts must handle criminal matters concerning persons under the age of 21 with great speed. If a person below the age of 18 is prosecuted for a crime that may render the offender liable to a sentence of imprisonment for more than one year, the main hearing must be held within two weeks from the date of prosecution.

197. Following an amendment - in force as of 1 July 1988 - to the Act containing Certain Provisions on Young Offenders, the demands on young criminals to repair and limit damage caused by the crime have increased. The police authority has an explicit right to instruct young offenders to take such action. When the prosecutor considers the question of waiving prosecution, he should also consider the extent to which the person in question has shown an intention to do his share to put things right again. A court may also, when deciding to leave the young offender in the care of the social welfare authorities, decide that he shall repair or limit the damage by the crime.

Article 14, paragraph 5

198. Under Swedish law, the prosecutor and the convicted person both have an unlimited right to appeal a verdict in a criminal case to a court of appeal. The appeal may be either on a question of guilt or on a question of sanction, or both. The main rule is that the court of appeal determines the case after a main hearing in accordance with the same provisions as those that applied in first instance. In certain cases, however, the court of appeal may determine a matter without a main hearing, for example when the appeal is manifestly ill-founded or when the sentence may be only a fine. If a party requests a main hearing, the court of appeal is obliged to hold such a hearing unless it is deemed to be manifestly needless.

199. Appeals against the verdicts of the courts of appeal may be lodged with the Supreme Court. However, as stated above, this instance takes up only cases that are of importance from the point of view of establishing precedents.

Article 14, paragraph 6

200. The information supplied in Sweden's initial report (CCPR/C/1/Add.9, p. 9) and in the second periodic report (CCPR/C/32/Add.6, paras. 29-30) with regard to convictions referred to in article 14, paragraph 6, still applies.

Article 14, paragraph 7

201. Although this paragraph corresponds to the main principle in Swedish law of the legal validity of judgements, there are a few cases where a request for a new trial should be granted also to the detriment of the convicted person in order to prevent the credibility of the judicial system from being called into question. That is the reason for the Swedish reservation to this paragraph. So far, the Swedish Government has found no reason to change its point of view on this subject.

Article 15

202. The information with regard to the prohibition of retroactive criminal legislation submitted in earlier reports (CCPR/C/1/Add.9, p. 18, and CCPR/C/32/Add.6, paras. 73-75) still applies.

203. In this context, it should be added that the Constitution (chap. 8, sect. 18) stipulates that, before the Government proposes a new Act to Parliament, it should seek the opinion of a special Law Council, consisting of three judges from the Supreme Court and the Supreme Administrative Court, regarding among other things the question whether the proposed Act is in any way unconstitutional.

204. The issue of retroactivity is normally discussed when a new tax is proposed. The Law Council has made a formal interpretation of the provision against retroactive tax laws and has never recommended the rejection of a bill on the grounds of its incompatibility with the motives of that provision.

Article 16

205. The right of everyone to recognition everywhere as a person before the law corresponds to the general principles of Swedish law. This right is implicit in the Constitution, chapter 1, section 9, of which reads:

> "Courts as well as administrative authorities and others performing tasks within the public administration shall in the exercise of their functions have regard to the equality of all persons before the law and maintain impartiality and objectivity."

206. In this context, reference should also be made to a recent reform regarding the legal incapacity of adults. The new legislation in this respect is described under articles 17, 23 and 25 below.

Article 17

207. Following an amendment in force as of 1 January 1989, the Constitution (chap. 2, sect. 3) now includes a rule protecting a person's personal integrity as far as computerized files are concerned. The provision reads:

> "Every citizen shall, to the extent specified in law, be protected against the infringement of his personal integrity due to the computerization of information concerning him."

208. An alien, through an amendment to the Constitution (chap. 2, sect. 20), has the same rights as Swedish citizens with regard to the protection of his personal integrity in connection with computerization.

209. As reported previously, the Data Act and the Secrecy Act contain provisions protecting a person's personal integrity from unjust infringements. The amendments to the Constitution further stress the importance of questions of personal integrity in connection with computerized files.

210. As far as registration of persons on account of their political opinions is concerned (see CCPR/C/SR.637, para. 56), the following should be added. A Parliamentary Committee (SAPO-kommittén) was appointed during the autumn of 1987. The Committee's task is, among other things, to look into the system of control and other questions relating to the registration of personal information in order to find a way to strengthen the legal security of the individual.

211. On 1 January 1988, the Act (1987:1231) on Computerization in Connection with Tax Auditing came into force. This Act includes rules to the effect that the tax authorities may not examine a computerized file containing personal information in such a way that an unjust infringement of personal integrity occurs.

212. The Data and Publicity Commission (DOK) referred to in an earlier report (CCPR/C/32/Add.12, para. 28) has made a proposal aimed at strengthening the protection of personal information contained in computerized files used in the field supervised by the Central Health Board. The proposal is now under consideration at the Ministry of Justice.

213. Up to now, the Government has not taken a decision concerning the appeal lodged by the Office of the Chancellor of Justice (a more appropriate term for "justitiekanslern" than "Attorney-General" used in earlier Swedish reports) against the decision of the Data Inspectorate (previously called the Data Inspection Board) concerning the data bank containing information on medical treatment, etc., mentioned in the report referred to above. This matter is closely related to the work proceeding in the Government as a result of the proposal of the Data and Publicity Commission. A decision concerning the appeal will be taken in connection with the consideration of the proposal of the Commission.

214. The Data and Publicity Commission has proposed a special law concerning the sale of personal information from computerized files by municipal and State authorities (see CCPR/C/32/Add.12, para. 29). The proposal contains a provision to the effect that it will be illegal for authorities to sell personal information without the permission of Parliament. The Commission has also investigated the current use of personal identification numbers (PINs), within the public and private sectors. The Commission has presented two alternative proposals for regulating and limiting the use of PINs. The proposals are at present under consideration at the Ministry of Justice.

215. The legislation concerning the legal incapacity of adults has been reformed since the last report to the Human Rights Committee was submitted. The new rules entered into force on 1 January 1989. The main features of the legislation in this field since the reform are described in the following paragraph.

216. For a person who is mentally deficient or deranged or suffers from a similar condition, the court may appoint a receiver (förvaltare) to handle the person's economic and personal affairs. However, such action must not be taken if the person's needs can be satisfied in a less far-reaching way. The assignment of the receiver must be adapted to the need in each individual case. It may in some cases encompass all the affairs of a person and in others be restricted to the administration of certain assets, e.g. a house or a pension. The person in question is deprived of his legal competence solely in matters included in the receiver's assignment. Nevertheless, with the receiver's consent, he may undertake transactions also in such matters. If circumstances change, the extent of the receiver's assignment can be adjusted. If the need for the receiver ceases, the court must decide that the assignment be terminated.

217. The possibility to authorize injunction against dissipation (described in CCPR/C/1/Add.42, p. 8) was abolished in 1981. Through amendments in force as of 1 July 1986 to the Code of Judicial Procedure, chapter 26, section 1, the possibility of authorizing provisional attachment applies also to the obligation to pay a company fine.

218. A few provisions of chapter 28 of the Code of Judicial Procedure were amended in 1985. In order to find a person who is subject to a decision of personal or bodily search, his premises may be searched. This may also be done for the purpose of serving him a summons in criminal cases. To this end, the premises of any other person may also be searched if there are special reasons to believe that the person sought for is present. However, search of premises may not be ordered for the purpose of serving summons in criminal cases unless the offence is punishable by imprisonment. Orders for the search of premises for the purpose of serving summons in criminal cases may be issued only by a court.

219. Under the Care of Alcoholics, Drug Abusers and Abusers of Volatile Solvents (Special Provisions) Act, which came into force on 1 January 1989, a person being cared for under that Act may be subjected to personal or bodily search to make sure that he is not carrying alcoholic beverages, narcotics, etc. Such a search, however, may not be more intimate than the purpose of the measure demands and all possible consideration compatible with the circumstances must be shown. If possible, a witness should be present (sect. 32).

220. Under the same Act, an inmate's mail and other deliveries may be checked provided that that is necessary for the sake of discipline at the institution or in view of the inmate's special circumstances. Prohibited property, such as narcotics and injection needles, may be confiscated (sect. 35).

221. The Act (1975:1027) on the Securing of Evidence in Fiscal Procedures (see CCPR/C/1/Add.9, pp. 19-20) has been amended. The new provision, in force as of 1 January 1988, states that a decision to secure evidence in accordance with the law in question must never be made unless the importance of the measure outweighs the invasion of privacy or other disadvantages that it inflicts on the individual.

222. As mentioned in earlier reports, telephone-tapping or wire-tapping is subject to rigorous restrictions. On 1 September 1989, several amendments concerning wire-tapping came into force. These amendments refer to the fundamental rule in chapter 27, section 16, of the Code of Judicial Procedure (see CCPR/C/32/Add.6, para. 76, and CCPR/C/32/Add.12, para. 10) and to related provisions in other Acts that deal with wire-tapping. The latter provisions are found in the Act (1952:98) on Special Provisions concerning Coercive Measures in Certain Criminal Offences, in the Act (1988:97) on the Procedure with Reference to Municipalities, Administrative Authorities and Courts in the Case of War or Danger of War, etc., and in the Act (1989:530, 1989:531) on Proceedings to Prevent Deeds of Violence with an International Background (the Act on Terrorists). When the 1988 and 1989 Acts came into force, the following two Acts mentioned in previous Swedish reports were repealed: the Act (1957:132) on Special Provisions for Courts and Trials during War-Time and the Act (1975:1360) on Coercive Measures for Investigative Purposes in Certain Cases.

223. The amendments of 1 September 1989 are due to the new telephone technology. The previous legislation referred to wire-tapping of conventional telephone calls only. The new legislation concerns all kinds of telecommunication transactions as long as they are transmitted by wire and are served by the State through the Telecommunications Administration.

224. Although the basic requirements for wire-tapping in the Code of Judicial Procedure and related provisions in other Acts still apply, a few amendments should be mentioned. In the Code of Judicial Procedure, the amendments imply the following. Wire-tapping may be authorized even in the case of an offence punishable by imprisonment of less than two years. The reference here is to offences which have not arrived at a stage of completion, but where there is a suspicion of attempt, preparation or conspiracy. A basic requirement, however, is that the offence at a completed stage would have been punishable by an impris nment of at least two years. The time-limit for an authorization has been extended to one month irrespective of the type of offence concerned. Wire-tapping concerning telephone calls or other telecommunication transactions between a suspect and his defence counsel is not permitted.

225. A new coercive measure involving less infringmenet than wire-tapping, namely, the possibility of monitoring telecommunication transactions, has been introduced in the Code of Judicial Procedure (chap. 27). This coercive measure was previously permitted only with regard to telephone calls in the case of offences against the security of the country, etc., and also if Sweden was at war or in danger of war. The purpose of this measure is to shut off a transaction of the kind mentioned or to collect information regarding a telecommunication line to which or from which a message has been dispatched or ordered, unknown to the user of the line. This monitoring possibility refers to offences punishable by imprisonment for at least six months, drug offences

and smuggling of drugs punishable by imprisonment (minimum 14 days). In other respects, the prerequisites are the same as for wire-tapping. Orders concerning wire-tapping and monitoring are applied for by the prosecutor and are issued by the general courts.

226. The Acts of 1988 and 1989 are not limited in time. As far as parliamentary control is concerned, the application of the provisions on wire-tapping and monitoring under the Code of Judicial Procedure and the other three Acts is continuously reported on an annual basis to Parliament (see under this article below).

227. In addition to what has been stated previously, it should be mentioned that the Swedish courts during 1988 gave the police authority permission to tap telephone conversations held by 218 persons. The permission was granted in accordance with chapter 27, section 16, of the Code of Judicial Procedure. A total of 203 persons were suspected of having committed serious drug offences. The other 15 were suspected of having committed other major crimes, such as murder.

228. As mentioned above (see under art. 2, para. 1), certain rules in the 1980 Aliens Act concerning aliens presumed to be terrorists have been transferred, unaltered, to a separate Act on Terrorists. The rules regarding coercive measures against presumed terrorists, such as telephone-tapping, that were previously part of the 1975 Act on Coercive Measures for Investigative Purposes in Certain Cases, have also been transferred, without alteration, to the Act on Terrorists (sects. 19-22).

229. The stipulations of the 1975 Act were, prior to 1 July 1989, subject to a time-limit. This meant that Parliament had to decide each year whether the Act should remain in force or not. The Government was obliged to report to Parliament every year on the application of the provisions (see CCPR/C/32/Add.6, para. 84; CCPR/C/32/Add.12, para. 10). Due to the amalgamation with the rules regarding terrorists, the provisions of the 1975 Act are now permanently in force. However, the Government still has an obligation to submit a yearly report to Parliament concerning the application of the rules regarding terrorists. The report is also subject to the rules formerly contained in the 1975 Act. The latest report, covering the period August 1987 to June 1988, stated that such coercive measures had been applied in six instances, concerning five persons. All cases dealt with telephone-tapping.

230. The stipulations of the 1989 Act on Terrorists include, apart from provisions on telephone-tapping, rules on search of premises, personal search and mail censorship regarding aliens who are presumed to be terrorists but who cannot, in effect, be refused entry or be expelled. These special provisions have been applied to the group of Kurds (see CCPR/C/32/Add.12, para. 20, and under art. 12 above) who have been living in Sweden since 1984 despite the fact that they have been expelled. Originally, the rules were applied to nine Kurds. As mentioned above (para. 127), the decision of expulsion was recently reversed in two of those cases.

Article 18

231. The right to freedom of thought, conscience and religion laid down in article 18 also forms part of the Swedish Constitution. The relevant provisions, which are still in force, are described in the initial Swedish report (CCPR/C/1/Add.9, pp. 18-19). The information submitted in the second periodic report and during the consideration of that report still applies (see CCPR/C/32/Add.6, paras. 88-89 and CCPR/C/SR.638, paras. 9-10, 15-16, 18 and 22).

232. The 1962 School Act referred to in the initial report has been replaced by new legislation, the 1985 School Act. The new Act is mainly the result of a revision of the structure and language of the old Act. The right to exemption from the "Survey of Religions" course offered in State schools still exists. Pupils may also still fulfil their compulsory school attendance by attending an independent school. The new School Act, chapter 8, contains provisions regarding independent schools. The County Board of Education and the Swedish National Board of Education supervise the educational quality in such schools.

233. Parents are thus at liberty to ensure the religious and moral education of their children in conformity with their own convictions by sending the children to independent schools. The opportunities of establishing such schools have increased during the last few years. This is due to the fact that a larger number of available study places in this category of schools are now subsidized by the State. The legal provisions governing independent schools have also become more flexible.

234. As mentioned, the State subsidizes independent schools. Some of them, at the primary level, are confessional schools. They are characterized by the fact that they emphasize religious teaching more than public schools do.

235. As previously reported, the question of the separation of the Church of Sweden from the State has been discussed at length. So far, however, no decision has been taken.

Article 19

236. The right to hold opinions is a prerequisite to the right to freedom of expression. As stated in the initial Swedish report and in the second periodic report (CCPR/C/1/Add.9, pp. 22-24, and CCPR/C/32/Add.6, paras. 3 and 90-91), this right is protected in the Constitution and in the 1949 Freedom of the Press Act.

237. The preparations at the Ministry of Justice for a bill to be submitted to Parliament based on the proposals of the Commission on Freedom of Expression (see CCPR/C/32/Add.6, para. 114) are still in progress. As a first result of this work, certain amendments to the Freedom of the Press Act have already been adopted by Parliament, among them a new wording of the section concerning agitation against ethnic groups (chap. 7, sect. 4, subpara. 11). The new wording corresponds to that of the Penal Code (see art. 20, para. 2, below).

238. The Act on Local Cable Transmissions entered into force on 1 January 1986. The new legislation enables a larger number of individuals to take part in, for instance, foreign programmes transmitted by satellite. It also enables a wider range of individuals to produce their own radio programmes.

239. If a local cable transmission reaches not more than 100 dwellings, no permit is required. In all other cases, a permit is required and may be granted by the Cable Authority (kabelnämnden). Permission may be denied only on formal grounds. The Authority is not allowed to interfere with the content of the transmissions.

240. The dissemination of pictures, films, video films and television programmes depicting extreme violence is prohibited. The relevant provisions have been transferred from specific laws to the Penal Code and are now included in chapter 16, sections 10 a, 10 b and 10 c.

241. The Ordinance on Cinema Performances (see CCPR/C/1/Add.9, p. 25, and CCPR/C/1/Add.42, p. 23) is currently being updated. At present, appeals against the Cinema Bureau's (biografbyran) decisions are lodged with the Government. In future, the final review of such appeals will be handled by a court of law or by a special commission, which will include a permanent judge among its members.

242. The revision work also aims at further limiting the extent of depictions of extreme violence in video films. The censorship regarding cinema films and video films made to be shown in public will probably not be extended to video films, which are rented to individuals. Instead, other methods, which are deemed to be at least as efficient and more compatible with the constitutional freedom of expression, are now under consideration. Such methods are, for instance, registration of video films and rental places, increased penal responsibility for illegal depiction of violence (Penal Code, chap. 16, sect. 10 b) and a more affirmative film policy directed towards young people.

243. Legislative proposals are expected to be presented during the spring of 1990.

Article 20, paragraph 1

244. Before Sweden's ratification of the Covenant, the feasibility of making war propaganda an offence was discussed, but the Government decided not to submit a bill on the subject to Parliament in view of the difficulties of delimiting the area of the punishable offence, and also in view of the risk that a penal provision might be detrimental to free debate. Therefore a reservation was made to this paragraph of article 20. The Swedish Government has not, so far, changed its view on this subject.

Article 20, paragraph 2

245. Swedish legislation on agitation against ethnic groups has been rephrased. According to the new wording, it is no longer a requirement for the applicability of the statute that a statement or a message that expresses threats against or contempt for an ethnic group has been made or spread among the public. It is enough that the utterance or message has been

disseminated. The new wording, which is aimed in practice at eliminating the possibilities for racist organizations to operate, came into force on 1 January 1989. Chapter 16, section 8, of the Penal Code now reads:

> "If a person in a statement or other communication, which is disseminated, threatens or expresses contempt for an ethnic group or other such group of persons with allusion to race, skin colour, national or ethnic origin or religious creed, he shall be sentenced for agitation against ethnic group to imprisonment for not more than two years or, if the crime is petty, to pay a fine."

246. A number of decisions have been reached during the last few years in the district courts concerning racist items in neighbourhood radio broadcasts. It is worth mentioning in this context that the Act concerning neighbourhood radio broadcasting licences has been amended, so that a broadcasting licence can now be withdrawn temporarily after a conviction, even before it has gained legal force, if the holder of the licence has, for example, been found guilty of agitation against an ethnic group.

247. Protection against advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence is also provided for in the Penal Code (chap. 16, sect. 5), concerning incitement to rebellion. The provision reads as follows:

> "A person who verbally, before an audience or assembly of people, or in a publication distributed or issued for distribution, or in any other communication to the public, incites or otherwise attempts to persuade people to commit a criminal act, evade a civic duty or disobey a public authority, shall be sentenced for inciting rebellion to a fine or to imprisonment for not more than six months.
>
> "A person who verbally, before an assembly of armed service personnel or in any other communication to armed service personnel, urges or otherwise attempts to persuade them to commit an act or omission amounting to neglect of their duties, shall likewise be sentenced for inciting to rebellion.
>
> "Minor offences shall not be punishable. In deciding whether an offence is minor, special consideration shall be given to whether there was only insignificant danger that the urging or attempt might be followed.
>
> "If the offence is considered grave because the offender tried to persuade others to commit a serious offence, or for other reasons, a sentence of imprisonment for not more than four years shall be imposed."

248. As touched on in the initial Swedish report, the Penal Code also contains a provision against unlawful discrimination by, for example, businessmen, persons employed in the public service, etc.

249. In this context, further reference may also be made to the eighth periodic report submitted in September 1987 by the Swedish Government under the International Convention on the Elimination of All Forms of Racial Discrimination (CERD/C/158/Add.7).

Articles 21 and 22

250. The information concerning the right to peaceful assembly and freedom of association supplied in earlier reports (see CCPR/C/1/Add.9, pp. 26-28, CCPR/C/1/Add.9/Corr.1, para. 2, and CCPR/C/32/Add.6, paras. 97-101) still applies.

Article 23

251. The Marriage Code of 1920 has been replaced by the 1987 Marriage Code, which came into force on 1 January 1988. The Family Code of 1949, as amended, however, is still in force. The new Marriage Code has led to changes in the Code of Succession and Inheritance.

252. The Marriage Code does not include any novelties as far as the rights laid down in article 23, paragraphs 1-3, are concerned. The legal provisions regarding marriage are still based on the assumption that the parties shall live together and that the parents, if they live together, shall have joint responsibility for their children.

253. The term "family", however, is in fact not defined in Swedish legislation. In Sweden a family is formed when two persons live together in a permanent relationship irrespective of whether they are married or not. Consequently a single parent with a child is also regarded as a family.

254. The new Marriage Code contains certain new provisions with regard to marital conditions relating to economic matters. The spouses, however, are still ensured equality of rights and responsibilities (chap. 1, sects. 2-4, and chaps. 6-13). The main aim of the changes is to achieve greater equality between a financially stronger and a financially weaker spouse following divorce or death.

255. It should be mentioned that the reform in this field also includes a new Act, the Cohabitees' Joint Homes Act (1987:232), dealing with economic relations between two individuals who live together in a relationship comparable to marriage. Furthermore, and at the same time, i.e. on 1 January 1988, the Homosexual Cohabitees' Act (1987:813) came into force. This Act contains provisions making certain other laws concerning economic relations between individuals applicable to homosexual couples.

256. The reform described under article 17 concerning the legal incapacity of adults also concerns the right to enter into marriage. Before the reform, a person who had been declared legally incompetent was not allowed to contract a marriage without the consent of the legally appointed guardian. Today, the fact that a receiver has been appointed for a person does not affect that person's right to enter into marriage.

257. The State provides financial support to families with children in various ways. Thus, general children's allowances include basic children's allowances, extended children's allowances and additional children's allowances. These general children's allowances are not means-tested or subject to taxation.

258. Children's allowances are payable, without application, for all children up to the age of 16. During 1988, these allowances were paid for some 1,600,000 children. They are paid monthly at a uniform rate. For 1988, the rate was SEK 5,820 per annum.

259. Extended children's allowances are paid for children above the age of 16 for as long as the child remains in a State school. The number of children receiving such allowance peaks at about 35,000 during the second quarter of the year, when the school term ends.

260. As from 1982, an additional children's allowance has been payable, over and above the basic children's allowance, to families with three or more children. Allowances of this kind were paid to some 155,000 families during 1988.

261. There are also housing allowances for families with children. During 1987, such allowances were paid to some 250,000 families with about 505,000 children. The expenditure involved is shared equally between the State and municipal authorities. For the 1988/89 fiscal year, the cost was estimated at a total of SEK 2,900,000.

262. If a child's parents are not living together, the non-custodial parent has to contribute towards the child's upkeep by paying a maintenance allowance. If the non-custodial parent refuses to pay an allowance, or is unable to do so, the custodial parent can, on application, obtain a maintenance advance from the State. For 1988, the rate of maintenance advance was SEK 860 per month. The number of children for whom maintenance allowances were paid during the fiscal year 1988/89 was estimated at some 288,000. Expenditure for the fiscal year was estimated at SEK 1,900,000. There are also special allowances for children adopted by only one person.

263. In this connection, it should be added that the national insurance scheme includes provisions regarding, for example, parental insurance and child pension. Furthermore, tax legislation contains rules concerning deduction for maintenance allowances and tax reduction for single parents.

264. The parental insurance scheme includes parental benefit during 15 months in connection with childbirth and during the child's first four years. It entitles parents to a leave of absence from work during 12 months with financial compensation at the same level as sickness benefit, i.e. at 90 per cent of their gross income. Everyone, not only the gainfully employed, is guaranteed a daily minimum of SEK 60. During the last three months (until the child is 15 months old), however, those who are gainfully employed receive only the guaranteed minimum amount. Compensation from parental benefit is taxable and qualifies the recipient for a future national supplementary pension in the same way as income from employment. Parental benefit is also payable to adoptive and foster parents.

265. One important aim of the parental insurance scheme is to make it more available to fathers, underlining the Swedish view that care of the children is the responsibility of both parents. Accordingly, the mother and the father can divide the 15 months of time off between them. Furthermore, fathers are entitled to 10 days' leave of absence with parental benefit in direct connection with childbirth.

266. It may be added that it is mostly women who make use of the parental benefit. Various efforts have been made and are in the process of being made to stimulate fathers to make use of their opportunities. Today, one father in five does this. Fathers stay at home from work in order to take care of their children on an average of 45 days.

267. Different child care activities, such as day nurseries and leisure centres, are designed to support children's development into secure, independent individuals with an independent capacity for coping with their surroundings. They are also intended, however, to give men and women equal opportunities to combine parenthood with gainful employment.

268. The overriding aims governing the focus, scope and content of child care are defined by Parliament and the Government, which also decide on the State grants awarded for child care activities. Accordingly, all pre-school children aged 18 months to 6 years are entitled to local authority child care services. The demand for child care is to be fully met by 1991.

269. The Social Services Act makes municipal authorities responsible for building, running and developing child care amenities in keeping with the predefined objectives. Apart from municipal amenities, a certain amount of child care is provided, for example, by voluntary organizations. State grants for all the various activities within the scope of child care were expected to total SEK 9,800,000 for the 1988/89 fiscal year.

Article 24

270. Certain aspects of the right of the child to protection, etc., have been mentioned under article 23 above.

271. In March 1988, the European Court of Human Rights found that Sweden had violated the rights of the applicants in a case concerning public care of their children (the Olsson case). It should be emphasized that the decision to take the children into care and its maintenance in force was not considered to have given rise to a violation. But the Court concluded that there had been a violation of article 8 of the European Convention on account of the manner in which the said decision was implemented.

272. Futhermore, the European Court issued a judgement in June 1989 in another case of a similar character. In that case (the Eriksson case), a child had been taken into public care as an infant. Five years after the order on public care was issued, it was decided that the public care of the child was to be terminated. However, due to the fact that the child had spent several years in a foster home, her natural parents were prohibited from removing her from that home. In its judgement, the European Court concluded that there had been a violation of article 8 of the European Convention, and also of article 6, paragraph 1, in that no court remedy was available to challenge one of the elements of the prohibition, namely, the restrictions on access.

273. As a result of investigations by two committees, a new Act has now been proposed to Parliament. It is intended to replace the Care of Young Persons (Special Provisions) Act (1980:621). The proposed Act will include new rules concerning the public care of children in general, including decisions to prohibit removal of a child from a foster home and decisions on access even when a care order has been replaced by a prohibition on removal. It will thus

be possible - if the new Act enters into force as proposed - to lodge an appeal with the county administrative court against a decision issued by a social welfare committee regarding a parent's right of access to his/her child even when a prohibition on removal is in force.

274. The registration of children and their names have been described in previous reports. There has been no change in the 1982 Names Act. The reference to section 26 of that Act in Sweden's second periodic report (CCPR/C/32/Add.6, para. 107) is, however, incorrect. Reference should instead be made to section 30.

275. The information in Sweden's second periodic report concerning a child's right to acquire a nationality (see CCPR/C/32/Add.6, paras. 109-110) is still applicable.

Article 25

276. Information with regard to participation in public affairs, the right to vote and to be elected and access to public service was supplied in the initial Swedish report (CCPR/C/1/Add.9, p. 31).

277. In addition to the statement made by the Swedish representative during the consideration of the second Swedish report (see CCPR/C/SR.638, para. 40), it should be mentioned that the post of judge in a Swedish court of law may be held only by a Swedish national (Code of Judicial Procedure, chap. 4, sect. 1).

278. The reform described under articles 17 and 23 regarding the legal incapacity of adults also concerns the right to vote in general elections. Every Swedish citizen who has reached the age of 18 on or before the day of the elections is now entitled to vote, regardless of the fact that a receiver may have been appointed for him (Constitution, chap. 3, sect. 2). The same applies to the right to be elected as member of Parliament or as substitute for a member (Constitution, chap. 3, sect.10).

Article 26

279. As stated in earlier reports (see CCPR/C/1/Add.9, pp. 31-32, and CCPR/C/1/Add.42, pp. 26-27), the Swedish Constitution lays down the principle of equality before the law.

280. The Swedish Government considers that the obligations under this article are similar to those under the International Convention on the Elimination of All Forms of Racial Discrimination. Reference may therefore also be made to the eighth periodic report on that Convention submitted by the Swedish Government in September 1987 (CERD/C/158/Add.7).

281. As far as discrimination on the grounds of sex is concerned, reference is also made to the information submitted under article 3 above.

282. The Act (1986:442) against Ethnic Discrimination, which contains rules governing the activities of the Ombudsman against Ethnic Discrimination and the Advisory Committee on Questions concerning Ethnic Discrimination, has already been described under article 2, paragraph 1, above.

283. In 1988, Parliament decided on changes in the admission system regarding higher education. The amendments will come into force in 1991. The new system involves changes concerning the admission of students who have been educated abroad. Immigrant students, refugees, students from other Nordic countries and Swedish students who have been educated in foreign countries will to a greater extent be placed side by side with applicants who have pursued their previous education within the Swedish school system. The present rule limiting the number of students who do not have Swedish as their mother tongue to 10 per cent of the total number of students will be abolished.

284. For practical reasons, the dissenters' tax, i.e. the reduction to 30 per cent of the congregational tax for taxpayers who do not belong to the Church of Sweden, was previously applicable only to taxpayers residing in the country. Under an amendment to the legislation in question, in force as of 1 January 1987, the reduction of the congregational tax is applicable to all non-members of the Church of Sweden, irrespective of where they reside. It may be added that the reduction is applied also to members of the Church of Sweden who have not resided in the country during any part of the year.

Article 27

285. As stated in the initial report, the Constitution (chap. 1, sect. 2) provides that the opportunities for ethnic, linguistic and religious minorities to maintain and develop a cultural and community life of their own shall be promoted.

286. Special provisions have been made for the education of the Sami population. On several occasions, Parliament has stated that the Sami, as long as they themselves so wish, shall have the option of two equal alternatives of education, i.e. Sami schools and ordinary schools. There are six Sami schools where children are taught in both the Swedish and the Sami languages from grades 1 to 6. Approximately 150 pupils attend Sami schools.

287. Since the school year 1983/84, Sami education has been integrated in the senior level of the ordinary primary school in one of the municipalities in the north of Sweden. The Sami School Board, since the school year 1988/89, has had at its disposal certain funds to enable it to arrange for integrated Sami education in ordinary primary schools in co-operation with the municipalities. This means that Sami pupils are enrolled in primary schools and are taught special Sami subjects separately. During the first period, about 70 Sami pupils took part in such integrated education.

288. Students of Sami origin who choose to be educated in the ordinary primary and secondary schools have a right to instruction in their own language.

289. In this context, reference should be made to Sweden's eighth periodic report under the International Convention on the Elimination of All Forms of Racial Discrimination (CERD/C/158/Add.7, paras. 55-56). It contains a description of measures taken by the Government to help the Sami in connection with the nuclear power accident at Chernobyl.

290. The Government Commission on the Legal Position of the Samis (see CCPR/C/32/Add.12, para. 24) presented its main report in June 1989. It deals with questions concerning the protection of reindeer herding and with the question of setting up an agency elected by the Sami people in general elections. Other questions raised are whether special mention should be made of the Sami in the Constitution and whether a special Sami Act is needed.

291. The rules governing State funding of religious communities other than the established Church of Sweden have been altered as of 1 July 1989. Religious communities may receive funding to help finance their religious activities and to help pay for premises. Under the new provisions, communities which mainly consist of or render services to immigrants can be treated more favourably than other independent communities in Sweden.